



# COMMISSION NEWS

---

ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

---

TO: EDITORS, NEWS DIRECTORS  
FOR: IMMEDIATE RELEASE

DATE: March 18, 2004  
CONTACT: Heather Murphy (602) 542-0844

## **COMMISSION CONTINUES TO CRACK DOWN ON UNREGISTERED PAY TELEPHONE CONTRACT SALES**

Two Women Agree to Pay Penalties and Return Commissions

PHOENIX – The Arizona Corporation Commission entered into consent orders with two individuals involved in selling unregistered securities in the form of pay telephone contracts. Securities salesperson and insurance agent, Kathleen Whorley Sommer of Phoenix, and insurance agent Evelyn Baumgardner of Glendale, agreed to pay penalties and return commissions earned for selling investment contracts in Alpha Telcom, Inc., an Oregon corporation. The Commission also revoked Sommer's Arizona securities registration.

Sommer and Baumgardner each agreed to pay the state \$5,000 in penalties and return to investors commissions of \$140,750 and \$70,500, respectively. Over a two-year period, Sommer sold to at least 33 Arizona investors \$615,000 worth of Alpha Telcom contracts. From August 2000 to May 2001, Baumgardner sold \$705,000 worth of contracts to at least 13 Arizona investors.

The Commission determined that both women relied on legal opinions stating that Alpha investment contracts were not securities. These opinions, however, did not address Arizona law regarding securities in the form of investment contracts. Alpha Telcom contracts are not registered investments and do not have an applicable exemption from registration in Arizona.

The Commission found that Sommer did not receive approval from her broker dealer to act as a sales agent for Alpha Telcom. Baumgardner was a licensed insurance agent, but was not registered to sell securities in Arizona. Sommer told investors, based upon literature she received from Alpha Telcom, how the pay telephones were especially designed to accommodate disabled people. Sommer convinced investors that the investment would not only help the disabled, but it could also qualify for a tax credit as well as an opportunity to realize a return on

invested funds.

Alpha Telcom declared bankruptcy in August 2001. Investors were not aware of the company's long disciplinary history with state and federal regulators, but they became aware of the bankruptcy when payments from Alpha Telcom stopped. Because the company filed bankruptcy, it is unknown what—if any—funds will be recovered from Alpha Telcom.

The Commission's Securities Division confirmed that Baumgardner made significant efforts to recover funds for her investors after learning of Alpha Telcom's bankruptcy and that the investment contracts were, in fact, securities. The Commission took Baumgardner's corrective actions into consideration when determining her penalty.

Although the orders resolve the Commission's claims against Sommer and Baumgardner, the Commission anticipates that it will take additional action against other individuals who were involved in sales of the Alpha Telcom contracts. Last year, the Commission entered into consent orders with two other insurance agents, 64-year-old Ralph Shaul of Phoenix and 60-year-old John R. Wallrich of Oregon.

Prior to investing, people should verify registration of sellers and investment opportunities by contacting the Arizona Corporation Commission's Securities Division at 602-542-4242 or toll free outside the Phoenix Metropolitan Area at 1-877-811-3878. The Division's website also has helpful information for investors: [www.ccsd.cc.state.az.us](http://www.ccsd.cc.state.az.us).

###